WPSB 64 of 2001

(Old No. 2989 of 1988)

Hon'ble A.A. Desai, C.J.
Hon'ble M.C. Jain, J

Heard learned counsel for the petitioner. He was recruited as sepoy in Army on 2.2.1948 and served till 16.7.1955. Thereafter, he served as reservist for a number of spells. He has prayed for mandamus commanding the respondents to pay pension to him.

It is revealed from Annexure No.1 to the writ petition that he had been granted a lump- sum payment of Rs. 750/- on account of service gratuity in lieu of service pension of Rs. 10/per month as back as in 1964. Receipt of the said lump-sum payment is admitted to the petitioner, but he contends that the same had been paid to him as reward for rendering his service to the Army. It is apparent that he had opted for lump-sum gratuity in lieu of pension and the amount was received by him. His own conduct fortifies it in that he kept mum for long years upto 1988 and only presented this writ petition on 22.2.1988. His claim for pension is wholly untenable in view of what has been stated above.

The writ petition is accordingly dismissed.

(**M.C. Jain, J)** **(A.A. Desai, C.J.)**

28.2.2001
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